

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5921 of 1985

with

SPECIAL CIVIL APPLICATION No 2307 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

MEGHAJEE DHARAMSHI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5921 of 1985
MR MD RANA for Petitioners
MRS S.J. TALATI, A.G.P. for Respondents.
 2. Special Civil ApplicationNo 2307 of 1986
MR MD RANA for Petitioners
MR DP JOSHI for Respondents.
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/10/97

ORAL JUDGEMENT

Special Civil Application No. 5021/85 is filed by 12 petitioners and they have prayed that other persons of this category are 60 more. Special Civil Application No. 2307/86 has been filed by two petitioners. All these petitioners and other labourers were engaged on daily wages by respondent no. 2. The details of their engagements have been given in the schedule attached to Spl. C.A. No. 5921/85 at annexure - A.

2. The prayer has been made by the petitioners in these petitions for directions to the respondents to give them benefits of equal pay for equal work. It is not necessary to go into all the contentions raised by the learned counsel for the petitioners and the respondents in these matters and the reason is very obvious. The parties are not at variance that the State of Gujarat has taken the decision vide resolution dated 17-10-1988 under which the benefits of paying regular pay scale, increments and other conditions of service inclusive of pension, gratuity etc. are extended to this categories of employees. Learned Counsel for the respondents does not dispute that the aforesaid resolution was made applicable to all the daily wages employees who have been appointed on before 1-10-1988 in the irrigation department. In view of the aforesaid resolution nothing more is required to be decided in this case and the claim of the petitioners for their regularisation as well as to give them pay scale etc. has to be considered with reference to the aforesaid resolution. Even if it is taken that for one reason or the other, the petitioners and other persons for whose benefit these petitions have been filed cannot be given benefits of regular pay scale etc. but after resolution dated 17-10-1988 the claim of the petitioners has to be considered by respondents themselves which is not done in the present case. It may be possible that this exercise would not have undertaken by the respondents as these petitions are pending before this Court. Taking into consideration totality of the facts of the case the ends of justice would be met if these two petitions are disposed of with the directions to the respondents to consider the case of the petitioners for giving benefit of regular pay scale, allowance, pension, gratuity and other service conditions with reference to the resolution dated 17-10-1988 within a period of three months from the date of receipt of writ of this order. In case, the claim of the petitioners are accepted then all the benefits of pay etc. should be determined within two months next and payment of arrears etc. should be made within next one month. The claim of

the category of these persons has to be considered irrespective of the fact that those persons have approached this Court or not. In case the claim of the petitioners is not acceptable by the respondents then a reasoned order may be passed and the copy of the same be sent to the petitioners by Regd. Post A.D.

3. In such matters before passing any order adverse to the petitioners opportunity of hearing may be given to them. In case of difficulty liberty is granted to the petitioners for revival of these special civil applications. Rule is made absolute to the above extent, with no order as to costs.

4. Learned advocate for the petitioners contended that other similar situate persons who are junior in the length of service of the petitioners have been given benefit from the back date and that claim of the petitioners has not been considered. It is open to the petitioners to bring this fact to the notice of the respondent no. 1 and while considering the case of the petitioners for giving them benefits under resolution dated 17-10-1988 this ground should also be considered.

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